

John Balestriere
 Craig Stuart Lanza
BALESTRIERE PLLC
 225 Broadway, Suite 2700
 New York, NY 10007
 Tel.: (212) 374-5401
Attorneys for Plaintiff

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 U.S. DISTRICT COURT E.D.N.Y.

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BROOKLYN OFFICE

UNITED STATES DISTRICT COURT
 EASTERN DISTRICT OF NEW YORK

BLOCK J.

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:	:
: C. KELLY, On Behalf of Herself and	: Docket No.
: all Others Similarly Situated	: REYES, M.J
:	:
: Plaintiff,	: <u>JURY TRIAL DEMANDED</u>
:	:
: - against -	:
:	:
: RC2 CORPORATION,	:
:	:
: Defendant.	:
-----X	

Plaintiff, C. KELLY ("Plaintiff"), individually and on behalf of all others similarly situated, by her attorney, CRAIG STUART LANZA of Balestriere PLLC, complaining of the defendants, respectfully alleges as follows upon information and belief, except as to allegations concerning Plaintiff or her counsel, which are made upon personal knowledge, and except as otherwise indicated herein:

PRELIMINARY STATEMENT

1. The dangerous misconduct of Defendant RC2 Corporation ("RC2" or "Defendant") - marketing and distributing for the last two and a half year 1.5 million separate children's toys with lead based paint - has caused an enormous amount of worry, anxiety, and fear, and either has cost a huge amount of out-of-

the Tainted Toys, or, perhaps any *other* toys which now have lead paint dust on them from exposure to those Tainted Toys for as long as two and a half years. Defendant clearly is attempting to minimize the financial backlash that would result from sufficiently publicizing its misconduct. RC2 has thus far been successful: Defendant's share price barely moved in response to its press release issued last week.

4. Since revelation of its dangerous misconduct, RC2 has tried to move past the Most Recent RC2 Lead Paint Recall without regard to the needs of the Class and their children. Defendant is only offering the Class replacement toys, and *not* money back for the purchased Tainted Toys. This is absurd: members of the Class can hardly trust Defendant to provide their children with safe toys. Inevitably, most Class members will reject Defendant's cheap offer, losing the money they paid for the Tainted Toys, as well as the value of any *other* toys that have been exposed to lead paint dust from the Tainted Toys which they now, also, must take away from their children. Proof of its attempt to get out of this dangerous debacle on the cheap, Defendant initially required parents who sought replacement toys to pay necessary shipping costs, only agreeing to pay for shipping after parents understandably complained that they should not have to pay anything to get dangerous toys away from their children.

5. The Most Recent RC2 Lead Recall is *not* a typical recall. This is not an occasion where a product simply and harmlessly does not work as it should. Remarkably, this is not even the first recall by Defendant involving lead paint in

pocket expense to Plaintiff and others similarly situated ("the Class" or "Class Members"), parents and guardians of the young children throughout the United States who have been exposed to the toys ("the Tainted Toys") Defendant recalled on June 13, 2007 ("the Most Recent RC2 Lead Paint Recall" or "this Recall") because the Tainted Toys were cheaply manufactured in China with dangerous lead paint.

2. Defendant used cheap lead paint in the manufacture of the 1.5 *million* Thomas the Tank Engine toy trains and related items ("the Thomas Toys"), which it has long marketed to toddlers, young children who regularly put toys in their mouths and bite on them. RC2 made a handsome profit from sales of the Thomas Toys that it sells throughout the world, reporting in its last income statement a profit of \$107.34 million and a market capitalization of nearly one billion dollars. Thus, RC2 profited from selling lead-based painted toys, decreasing their costs while increasing stress, worry, and expense for parents around the globe - and possibly giving lead paint poisoning, with its nightmarish risk of long term, severe brain damage, to an as-of-yet unknown number of children.

3. Plaintiffs bring this action to prevent any more young children from becoming victims of RC2's ongoing misconduct. Defendant's press release and its other meek actions prior to filing this suit are offensive: they do a dangerously inadequate job of getting the message out to parents that their children are at continued risk of neurological disorders if they keep playing with

a children's toy. As RC2 is well aware from its experience in recalling products it markets to toddlers, this product can cause brain damage in young children. Plaintiff and the Class bring this suit to force Defendant to do what it has chosen not to do: engage in further, adequate, real efforts to alert those whose children are in danger.

6. These parents and guardians also seek to force Defendant to compensate Plaintiff and members of the Class for the tremendous emotional stress Defendant has inflicted upon them, the cost of the medical testing of their children which Class members now must undertake, the full purchase price of the Tainted Toys for those parents who understandably choose not to receive any suspect replacement items from Defendant, and the replacement costs of the *other* toys and items exposed to the Tainted Toys which Class Members must also remove from their children.

PARTIES

7. Plaintiff C. Kelly is a parent of a six year old child that was exposed to one or more of the Tainted Toys, who lives in Staten Island, New York.

8. Defendant RC2 Corporation is, according its own website, "a designer, producer, and marketer of high-quality, innovative collectible, hobby, toy and infant products that are fun to own and use and encourage *repeat* purchases." (<http://www.rc2.com/company/company.asp>, last viewed June 16, 2007) (emphasis added).

JURISDICTION AND VENUE

9. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(d)(2) in that at least one member of the Class is a citizen of a State different from the Defendant named herein and the matter in controversy exceeds the sum or value of \$5,000,000.

10. Venue is proper in this District because (a) at least one member of the class resides in this District; (b) the Defendant conducts substantial business here.

CLASS ACTION ALLEGATIONS

11. Plaintiff brings this class action pursuant to Federal Rule of Civil Procedure 23 ("Rule 23") in her representative capacity on behalf of herself and the Class of all persons similarly situated, defined as follows:

All parents and guardians of young children whose children have been exposed to the Tainted Toys sold between January 2005 and June 2007.

12. This action meets the following prerequisites of Rule 23(a) by which Plaintiff may bring this action on behalf of the Class:

- a. Numerosity. The Class consists of individuals whose children have been exposed to *1.5 million* Tainted Toys produced and distributed by Defendant. Unquestionably, the number of individuals affected is so large that joinder of all members as individual plaintiffs is impracticable.

b. Commonality. There are questions of law and fact common to the Class. Such common questions include, but are not limited to:

- (i) Did RC2 sell the Tainted Toys to the public?
- (ii) Did RC2 make any reasonable attempt to compensate any purchaser for the amount spent on lead testing for their child?
- (iii) Did RC2 make any reasonable attempt to compensate any purchaser for the amount spent on the Tainted Toys?
- (iv) Did RC2 make any reasonable attempt to compensate any purchaser for the amount spent on the *other* toys which now have lead-based paint on them due to exposure to the Tainted Toys?
- (v) Did RC2's misconduct cause worry, anxiety, fear, and emotional distress for all the Members of the Class who are now concerned that their children could have long term neurological and other damages due to this misconduct?

c. Typicality. Plaintiff's claims are typical of the claims of the Class. Plaintiff is an average parent who purchased RC2's Tainted Toys, to which her child has been exposed, and has been harmed as a result.

d. Adequacy. Plaintiff will fairly and adequately protect the interests of the Class. Plaintiff has no interests that are antagonistic to or in conflict with the interests of the Class as a whole, and Plaintiff has

engaged competent counsel experienced in class actions and complex litigation.

e. Maintainability. This action is properly maintainable as a class action for the prior independent reasons and under the following portions of Rule 23:

- i. The prosecution of separate actions by members of the Class would create a risk of adjudications with respect to individual members of the Class which would, as a practical matter, be dispositive of the interests of the other members not parties to the adjudications, or substantially impair or impede their ability to protect their interests. Rule 23(b)(1)(B).
- ii. The Defendants have acted or refused to act on grounds generally applicable to the Class, thereby making appropriate final injunctive, declaratory, or other appropriate equitable relief with respect to the Class as a whole. Rule 23(b)(2).
- iii. Questions of law and fact common to members of the Class predominate over any questions affecting only individual members, and the class action is superior to other available methods for the fair and efficient adjudication of the controversy. Rule 23(b)(3).

FACTS

13. Defendant marketed, distributed, and sold popular toys that are dangerous to young children, with potentially devastating long-term effects to those children, fattening Defendant's bottom line.

Thomas the Tank Engine Toys

14. Thomas Toys are, as the Associated Press noted, "wildly popular" and the "favorite toys" of many young children. "Major Recall of Thomas the Tank Engine Due to Lead Fears," June 14, 2007, Associated Press. Thomas Toys are wooden trains, box cars, cabooses, train tracks, cars, buildings, and related toys which in recent years have become one of the most sought-after toys for the youngest of children.

15. They are especially appealing to children as young as one and two years old since they are made of wood. This was reassuring to parents of the youngest children, prior to the Most Recent RC2 Lead Paint Recall, since their children could play with the Thomas Toys without fear that they would easily break, as many plastic toys do.

16. Moreover, parents believed, prior to this Recall, that the Tainted Toys were fine for their youngest children who frequently put toys and other objects in their mouths, since well-made wooden toys do not have small plastic parts which, parents well know, can break off and create choking hazards for their children.

17. The Most Recent RC2 Lead Paint Recall, of course, showed the parents how misplaced their confidence was.

18. Parents and guardians of toddlers such as Plaintiff purchased the Tainted Toys because they were known for being well-made. They are not inexpensive. "These are not cheap, plastic McDonald's toys," noted a parent in *The New York Times* expose of the Tainted Toys recall, "Thomas the Tank Engine Toys Recalled Because of Lead Paint," June 15, 2007. That same article reported that such toys are priced at a *minimum* of \$10 and can cost as much as \$70 for one piece.

19. The danger may start with the Tainted Toys, but it does not end there. The Tainted Toys are toy trains of the type which parents have, for generations, purchased and collected over time. Toy trains such as the Thomas Toys, including the Tainted Toys, are generally kept in one large box or bin. The toys rub against one another, such that lead-based paint from the Tainted Toys - some of which have been in the same bin as other Thomas Toys - has rubbed onto *other* toys, making those toys as well a risk to Class Members' children. Many if not most Class Members will choose to rid their homes of *all* the Thomas Toys they have collected for their children, over years, at great expense, to insure there is no further risk to their children.

20. The cumulative cost of all the toys that may need to be discarded is huge given how pricey Thomas Toys are. As an example, a Thomas Toys "Roundhouse Set," a "deluxe" starter set with a few dozen Thomas Toys (all

packaged *together* in one, large, train shaped box) was being sold at a *discounted* price of \$450.00 at the Learning Things website (<http://www.learningthings.com>) on June 17, 2007. The Roundhouse Set includes Tainted Toys, as well as dozens of other Thomas Toys. All of these toys present a risk to children. Many Class Members will throw all of these expensive toys away.

The Tainted Toys: Revelation of Negligence

21. On June 13, 2007, RC2 issued a press release ("the RC2 Press Release"), announcing that it had been selling Tainted Toys *for two and a half years*. The RC2 Press Release (attached hereto as Exhibit 1) stated:

In cooperation with the CPSC, RC2 has issued a voluntary recall on June 13th, 2007, of various Thomas & Friends™ Wooden Railway vehicles and wooden train set components sold at toy stores and various retailers nationwide from January 2005 through June 2007.

The recall involves only the specific wooden vehicles, buildings and other train set components for young children listed in the chart below. RC2 has determined that the surface paints on the recalled products contain lead. Lead is toxic if ingested by young children and can cause adverse health effects.

22. While RC2 admits facts known with scientific certainty for decades – "Lead is toxic if ingested by young children and cause adverse health effects", without mentioning how horrific those "adverse" effects can be – the inadequate RC2 Press Release manages to neglect important facts and advice. Almost hidden at the bottom of the webpage publishing the RC2 Press Release – which is benignly entitled "Recall of Wooden Vehicles and Train Set Components" with

no mention of lead paint - is a link to the federal CPSC press release ("the Government Press Release," attached hereto as Exhibit 2). That release is more accurately entitled, "RC2 Corp. Recalls Various Thomas & Friends™ Wooden Railway Toys *Due to Lead Poisoning Hazard*" (emphasis added).

23. The Government Press Release does not hide the dirty facts. Unlike the RC2 Press Release, the Government Press Release notes that 1.5 million Tainted Toys are subject to the Recall. Moreover, in the Government Press Release's second line, the Commission bluntly advises that "Consumers should stop using recalled products immediately," a suggestion included only near the end of the RC2 Press Release. By contrast, in the RC2 Press Release's second line, RC2 - a company which has issued *four recalls* of dangerous children's toys since 2003, as described below - states its public relations line that it is a company "compelling passionate parenting and play for all ages."

24. Given that many toys are found in families with more than one child, potentially millions of children have risked exposure to lead paint.

Lead Poisoning is Devastating

25. The lead poisoning that lead-based paint causes is frightening:

Lead-based paint is a major source of lead poisoning for children and can also affect adults. In children, lead poisoning can cause *irreversible brain damage* and can impair mental functioning. It can *retard mental and physical development* and reduce attention span. It can also retard fetal development *even at extremely low levels of lead*. In adults, it can cause irritability, poor muscle coordination, and *nerve damage* to the sense organs and nerves controlling the body. Lead poisoning *may also cause problems with reproduction*

(such as a decreased sperm count). It may also increase blood pressure.

University of Buffalo School of Pharmacy and Pharmaceutical Sciences.

(<http://www.pharmacy.buffalo.edu/poison/iron.htm>, last viewed June 16, 2007).

26. Dangers of lead paint have been known for two thousand years. Indeed, in 14 B.C.E., the Roman architect Vitruvius wrote of the dangers of exposure to lead in his book *De Architectura*. Benjamin Franklin expressed concern about the use of lead by British colonists in the 1720s. More recently, the federal Environmental Protection Agency warned Americans that:

Lead is a highly toxic metal [that] may cause a range of health effects, from behavioral problems and learning disabilities, to seizures and death. *Children 6 years old and under are most at risk, because their bodies are growing quickly.*

(<http://www.epa.gov/lead/>, last viewed June 17, 2007, emphasis added).

27. Lead is so dangerous that the Congress has taken special action. In 1992, after researching the effect of lead paint on children, Congress passed the Residential Lead-Based Paint Hazard Reduction Act of 1992. 42 U.S.C. §§ 4851-4856. ("The Lead Paint Act"). The Lead Paint Act, states that:

Congress [found] that low-level lead poisoning is widespread among American children, afflicting as many as 3,000,000 children under age 6 [and] at low levels, lead poisoning in children causes intelligence quotient deficiencies, reading and learning disabilities, impaired hearing, reduced attention span, hyperactivity, and behavior problems.

42 U.S.C. § 4851(1-2).

28. Moreover, the Thomas Toys were made in China, which is infamous for a general lack of concern for the health dangers its products create, and has become notorious for producing lead paint products.

Environmental and occupational health experts at the University of Cincinnati, UC, have found that India, China and Malaysia still produce and sell consumer paints with dangerously high lead levels, even on products intended for use by children such as painted playground equipment. Researchers from four countries say that this lead-based paint production poses a global health threat, and a worldwide ban is urgently needed to avoid future public health problems.

Environmental News Service, "Environmental Experts Urge Global Lead Paint Ban," August 24, 2006.

Defendant Knows Lead Paint is Highly Dangerous Since the Most Recent RC2 Lead Paint Recall is its Second Lead Paint Recall in Four Years

29. RC2 is well aware of the dangers of lead paint in toys geared for children because only four years ago they issued *another* recall for toys geared towards young children that also were manufactured with lead paint. According to its own website, RC2 voluntarily recalled approximately 3,800 toys in March 2003 because those toys contained lead paint. One type of recalled toys was intended to attach to a stroller, and the other was a simple blue metal wire with plastic beads along it. (http://www.rc2corp.com/company/recalls_Lamaze_0303.asp, last viewed June 18, 2007).

30. In fact, RC2 is becoming increasingly expert in recalls of toys dangerous for young children. The Most Recent RC2 Lead Paint Recall is its *fourth* dangerous toy recall in as many years. Besides the 2003 and 2007 lead

paint recalls, RC2 just last year issued two other recalls: first for toy keys which can break apart and choke toddlers (http://recalls.rc2.com/recalls_DeereTFY_1106.html), and then for teethingers for infants that contain toxic chemicals: *pseudomonas aeruginosa* and *pseudomonas putida*. The contaminated teethingers (toys for children to bite when they are teething) could cause serious illness to children if the teethingers were punctured and the bacteria ingested. (http://recalls.rc2.com/recalls_TFY_0106.html)

31. The reason for the increase in recalls is RC2's apparent increasing reliance on cheap goods, like the Tainted Toys, inexpensively made in China, a nation of increasing notoriety for producing toxic materials that get into the hands of American and global consumers. Just this past Sunday, *The New York Times* ran as its lead story a depressing piece regarding how Chinese companies have twice in ten years dumped onto the pharmaceutical market dangerous products responsible for the deaths for as many as 200 *children* in Haiti and Panama. "A Toxic Pipeline: Tracking Counterfeit Drugs; From China to Panama, a Trail of Poisoned Medicine." June 17, 2007.

32. Defendant's reliance on these dangerous Chinese-made goods almost certainly added to its recent hundred-million dollar plus profit numbers. But it also has resulted in great financial losses to the Class. And, more significantly and ominously, Defendant's misconduct has created incalculable emotional stress and worry regarding the untold numbers of neurological and other disorders Class Members' children may develop.

FIRST CAUSE OF ACTION: NEGLIGENCE

33. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs numbered "1" through "32" with the same force and effect as if fully set forth herein.

34. Defendant owed a duty to all those exposed to the risk that it created by selling a product containing lead paint which causes grave danger of serious, long term, neurological and other damage in young children. In manufacturing, marketing, distributing, and selling the Tainted Toys, Defendant did not act as a reasonably prudent person. Defendant evinced a lack of reasonable care in the manufacture, design, distribution, and sale of the Tainted Toys. This inexcusable behavior over a period of at least two and a half years caused a host of significant damages:

- Class Members lost the money spent on the Tainted Toys;
- Class Members lost the money spent on *other* toys, exposed to the Tainted Toys, which they now also must remove from their homes and discard;
- Class Members must now spend money to seek assistance from a medical professional to determine the effect of the exposure to their children; and
- Class Members suffered the great emotional distress, a nightmare for any parent, of learning that their children may suffer anything from

brain damage to behavior problems as a result of exposure to the Tainted Toys.

SECOND CAUSE OF ACTION: UNJUST ENRICHMENT

35. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs numbered "1" through "34" with the same force and effect as if fully set forth herein.

36. Defendant has been unjustly enriched by sale of the Tainted Toys in a number of ways:

- by using an unscrupulous manufacturer in China, Defendant has been able to save money on costs while escaping the United States' safety standards;
- by selling the Tainted Toys to consumers unaware of the grave risk of exposure to the Tainted Toys, Defendant received money it did not deserve, and
- by only offering Class Members another one of Defendant's products - instead of returning Class Members' money, for both the Tainted Toys, as well as any *other* toys which Class Members justifiably fear were exposed to the Tainted Toys and, thus, still pose a risk to their children - Defendant has developed a scheme to return practically none of the money Defendant unjustly acquired from consumers.

THIRD CAUSE OF ACTION: DESIGN DEFECT

37. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs numbered "1" through "36" with the same force and effect as if fully set forth herein.

38. Defendant introduced to the market a product that was defectively designed. Upon leaving Defendant's hands, the Tainted Toys were in a condition not reasonably contemplated by the ultimate consumer and unreasonably dangerous for its intended use. The Class in no way considered that the Thomas Toys were coated in lead-based paint, and such paint is a known health hazard.

39. Defendant failed to exercise the proper degree of care in producing, marketing, and distributing the Tainted Toys: the "burden" of using non-lead-based paint is clearly outweighed by the likelihood of harm resulting from coating over one million toys with the poisonous paint.

**FOURTH CAUSE OF ACTION: BREACH OF
THE IMPLIED WARRANTY OF MERCHANTABILITY**

40. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs numbered "1" through "40" with the same force and effect as if fully set forth herein.

41. Defendant, a seller of toys, breached the implied warranty of merchantability to all members of the Class by selling toys that are not fit for the ordinary purpose for which they are intended.

FIFTH CAUSE OF ACTION: N.Y. GEN. BUS. L. § 349
CONSUMER PROTECTION AGAINST DECEPTIVE ACTS AND
PRACTICES

42. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs numbered "1" through "41" with the same force and effect as if fully set forth herein.

43. Defendant, by marketing, distributing, and selling the Tainted Toys to parents, engaged in a deceptive or unconscionable trade practice of consumer goods. Defendant's sale of children's toys that were coated with lead paint constitutes a materially misleading act, as parents had good reason to believe that the Thomas Toys were safe for children. Defendant's failure to disclose that the Thomas Toys were coated with lead paint constitutes a materially misleading and deceptive omission. A reasonable consumer would have been misled by Defendant's conduct.

44. As a result of Defendant's conduct, the Class is entitled to recover its actual damages sustained in addition to reasonable attorney's fees. Should the court find that Defendant willfully or knowingly violated § 349, the Class seeks damages in triplicate.

CONCLUSION

45. Wherefore on her own behalf and on behalf of the Class, Plaintiff demands judgment and relief as follows:

(A) An Order from the Court that Defendant immediately cease production and distribution of any of its products which contain any lead paint whatsoever;

(B) An Order from this Court that Defendant notify by first class mail, e-mail, telephone, advertisement, and any other means the Court believes appropriate, any individuals, stores, distributors, wholesalers, mail order merchants, web merchants, or anyone else who purchased or sold the Tainted Toys at any time;

(C) Restitution for the Class Members for the money and time they must devote to medical testing for their children, in an amount to be determined at trial;

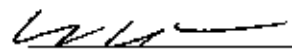
(D) Restitution to Class Members of all the money they spent on the Tainted Toys as well as any other toys which they reasonably must discard because of exposure of those *other* toys to the Tainted Toys' lead based paint, in an amount to be determined at trial;

(E) Disgorgement of the profits Defendant accrued from use of lead based paint rather than safe paint, in an amount to be determined at trial;

(F) Compensation to Class Members for their ongoing stress, anxiety, and worry due to Defendant's negligence and other misconduct, in an amount to be determined at trial.

(G) Punitive Damages, in amount to be determined at trial, as a punishment and deterrent measure, so that RC2 uses more care in producing their children's toys in the future.

Dated: June 22, 2007
Brooklyn, New York


John Balestrieri (JB-3247)
Craig Stuart Lanza (CL-2452)
BALESTRIERE PLLC
225 Broadway
Suite 2700
New York, NY 10007
Telephone 212-374-5401

New York Times
June 15, 2007

Thomas the Tank Engine Toys Recalled Because of Lead Paint

By ANGEL JENNINGS

The toy maker RC2 Corporation pulled a number of its Thomas & Friends trains and accessory parts off the shelves yesterday after learning that the red and yellow paint used to decorate more than 1.5 million of the toys contained lead.

Lead, if ingested by children, can cause long-term neurological problems that affect learning and behavior.

"Parents should not delay in getting these toys away from their kids," Scott Wolfson, spokesman for the Consumer Product Safety Commission, said yesterday.

An alert posted at a Web site devoted to the toy line, www.totallythomas.com, included a list of more than two dozen items affected by the recall. The company noted that toys that bear a code containing a "WJ" or "AZ" on the bottom of the toy or the inside of the battery door are not included in the recall.

The company at first urged consumers to mail in their Thomas toys, at their expense, in exchange for a replacement and a free train, an offer that angered some consumers.

Many Thomas the Tank Engine fans have collected dozens of trains, boxcars or railroad stations, and shipping several heavy pieces could quickly become expensive. Later yesterday, the company, which is based in Oak Brook, Ill., agreed to handle the shipping cost for all consumers who request it.

The affected Thomas toys were manufactured in China, which has come under fire recently for exporting a variety of goods, from pet food to toothpaste, that may pose safety or health hazards. "These are not cheap, plastic McDonald's toys," said Marian Goldstein of Maplewood, N.J., who spent more than \$1,000 on her son's Thomas collection, for toys that can cost \$10 to \$70 apiece. "But these are what is supposed to be a high-quality children's toy."

Ms. Goldstein's 4-year-old son owns more than 40 pieces from the Thomas series, and seven of them were on the recall list, including the Sodor deluxe fire station, a footlong piece that is a little heavier than the average train.

Ms. Goldstein said she wondered who would pay for testing her son for lead poisoning if her insurance did not cover it.

RC2 Recall Information

Recall of Wooden Vehicles and Train Set Components

In cooperation with the CPSC, RC2 has issued a voluntary recall on June 13th, 2007, of various Thomas & Friends™ Wooden Railway vehicles and wooden train set components sold at toy stores and various retailers nationwide from January 2005 through June 2007.

The recall involves only the specific wooden vehicles, buildings and other train set components for young children listed in the chart below. RC2 has determined that the surface paints on the recalled products contain lead. Lead is toxic if ingested by young children and can cause adverse health effects.

The front of the packaging has the logo "Thomas & Friends Wooden Railway" on the upper left-hand corner and a manufacturing code may be located on the bottom of the product or inside the battery cover.

Toys listed in the chart below marked with codes containing "WJ" or "AZ" are not included in this recall. No other Thomas & Friends Wooden Railway or other Thomas & Friends brand toys are affected by this recall.

Recalled Product Names

Red James Engine & Red James' # 5 Coal Tender
Red Lights & Sounds James Engine & Red James' #5 Lights & Sounds Coal Tender
James with Team Colors Engine & James with Team Colors #5 Coal Tender
Red Skarloey Engine
Brown & Yellow Old Slow Coach
Red Hook & Ladder Truck & Red Water Tanker Truck
Red Musical Caboose
Red Sodor Line Caboose
Red Coal Car labeled "2006 Day Out With Thomas" on the Side
Red Baggage Car
Red Holiday Caboose
Red "Sodor Mail" Car
Red Fire Brigade Truck
Red Fire Brigade Train
Deluxe Sodor Fire Station

Red Coal Car
Yellow Box Car
Red Stop Sign
Yellow Railroad Crossing Sign
Yellow "Sodor Cargo Company" Cargo Piece
Smelting Yard
Ice Cream Factory

[Click here for a full list of images of the specific recalled products.](#)

At this time, there have been no reports of illness or injury as a result of this issue.

Consumers should take the recalled toys away from young children immediately and return the affected products to RC2 Corporation for a replacement product. Consumers must include a completed return form, indicating the item(s) being returned. Return product and completed form to:

In the United States:

RC2 Corporation
Attn: Wooden Vehicle Recall
2021 9th Street SE
Dyersville, IA
52040-2316

U.S. Return Form

Postage will be reimbursed via separately-mailed check at the estimated U.S. Postal Service Ground rate.

In Canada:

KRG Logistics
Attn: RC2 Wooden Vehicle Recall
170 Traders Blvd
East Mississauga, ON L4Z 1W7
Canada

Canadian Return Form

Postage will be reimbursed via separately-mailed check at the estimated Canada Post Regular Parcel rate.

For customers outside the U.S. and Canada, please [click here](#) for recall contact information.

For more information and/or instructions on returning the affected products and obtaining replacements, please contact RC2's Customer Service via email to recalls@rc2corp.com or call toll free at (866) 725-4407, Monday through Friday between 8 a.m. - 5 p.m. CT.

Due to high call volumes, you may experience a busy signal. We apologize for this inconvenience and ask that you try calling back at a later time.

[Click here for a copy of the official CPSC press release](#)

If you are having problems downloading the return form or listing of products, please ensure you have the latest version of Adobe Acrobat. You may download it for free by visiting the Adobe website.

If you continue to have problems downloading these forms, please contact our customer service department at recalls@rc2corp.com and request that it be emailed to you.

http://recall.rc2.com/recalls_Wood_0607.html (last viewed on June 16, 2007)

PRESS RELEASE**NEWS from CPSC****U.S. Consumer Product Safety Commission**

Office of Information and Public Affairs

Washington, DC 20207

FOR IMMEDIATE RELEASE

June 13, 2007

Release #07-212

Firm's Recall Hotline: (866) 725-4407**CPSC Recall Hotline: (800) 638-2772****CPSC Media Contact: (301) 504-7908*****RC2 Corp. Recalls Various Thomas & Friends™ Wooden Railway Toys Due to Lead Poisoning Hazard***

WASHINGTON, D.C. - The U.S. Consumer Product Safety Commission, in cooperation with the firm named below, today announced a voluntary recall of the following consumer product. Consumers should stop using recalled products immediately unless otherwise instructed.

Name of Products: Various Thomas & Friends™ Wooden Railway Toys

Units: About 1.5 million

Importer/Distributor: RC2 Corp., of Oak Brook, Ill.

Hazard: Surface paints on the recalled products contain lead. Lead is toxic if ingested by young children and can cause adverse health effects.

Incidents/Injuries: None.

Description: The recall involves wooden vehicles, buildings and other train set components for young children listed in the chart below. The front of the packaging has the logo "Thomas & Friends Wooden Railway" on the upper left-hand corner. A manufacturing code may be located on the bottom of the product or inside the battery cover. Toys marked with codes containing "WJ" or "AZ" are not included in this recall.

Recalled Product Name
Red James Engine & Red James' # 5 Coal Tender
Red Lights & Sounds James Engine & Red James' #5 Lights & Sounds Coal Tender
James with Team Colors Engine & James with Team Colors #5 Coal Tender
Red Skarloey Engine
Brown & Yellow Old Slow Coach
Red Hook & Ladder Truck & Red Water Tanker Truck

Red Musical Caboose
Red Sodor Line Caboose
Red Coal Car labeled "2006 Day Out With Thomas" on the Side
Red Baggage Car
Red Holiday Caboose
Red "Sodor Mail" Car
Red Fire Brigade Truck
Red Fire Brigade Train
Deluxe Sodor Fire Station
Red Coal Car
Yellow Box Car
Red Stop Sign
Yellow Railroad Crossing Sign
Yellow "Sodor Cargo Company" Cargo Piece
Smelting Yard
Ice Cream Factory

Sold at: Toy stores and various retailers nationwide from January 2005 through June 2007 for between \$10 and \$70.

Manufactured in: China

Remedy: Consumers should take the recalled toys away from young children immediately and contact RC2 Corp. for a replacement toy.

Consumer Contact: For additional information, contact RC2 Corp. toll-free at (866) 725-4407 between 8 a.m. and 5 p.m. CT Monday through Thursday and between 8 a.m. and 11 a.m. CT Friday, or visit the firm's Web site at recalls.rc2.com

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WIKIPEDIA PIECE ON LEAD POISONING

Lead poisoning

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ICD-10 T56.0

ICD-9 984.9

Lead poisoning is a medical condition, also known as **saturnism**, **plumbism** or **painter's colic**, caused by increased blood lead levels.

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] History

Lead was first mined in [Asia Minor](#) (today [Turkey](#)) about 6500 BCE. A 6000- to 8000-year-old lead necklace was found in the ancient city site of [Anatolia](#). Lead's easy workability, low melting point and corrosion resistance were among its attractions.

Lead toxicity was first recognized as early as 2000 BCE. [Nicander of Colophon](#) wrote of lead-induced [anemia](#) and [colic](#) in 250 BCE. [Gout](#), prevalent in affluent [Rome](#), is thought to be the result of lead, or leaded eating and drinking vessels. Lead was used in makeup. Lead sugar (lead acetate) was used to sweeten wine, and the [gout](#) that resulted from this was known as saturnine gout.^[1]

Aulus Cornelius Celsus, writing ca. 30 CE, listed white lead on a list of poisons with antidotes (beside cantharides, hemlock, hyoscyamus, poisoned mushrooms, and a swallowed leech), and claimed it could be remedied by mallow or walnut juice rubbed up in wine^[2] — an interesting idea.^{[3][4]} Despite his awareness of lead's toxicity, citing many contemporary authorities, Celsus recommended its use in a wide range of ointments applied to wounds to stop bleeding and reduce infection or inflammation.^[5]

Julius Caesar's engineer, Vitruvius, who also served his successor Caesar Augustus, reported, "Water is much more wholesome from earthenware pipes than from lead pipes. For it seems to be made injurious by lead, because white lead paint is produced from it; and this is said to be harmful to the human body."^[6]

In 17th-century Germany, an Ulm physician noticed that monks who did not drink wine were healthy, while wine drinkers developed colic. The culprit was a white oxide of lead, litharge, added to sweeten the wine.^[7]

Chinese alchemists found that lead could be rendered harmless by soaking it in blood and firing it, when this process was repeated several times it provided a protective coat that lead could not pass. The only notable use of this measure was by martial artists so they could use the heavy metal as weights for training.

Today, most exposure in developed countries is the result of occupational hazards, leaded paint, and leaded gasoline (which continues to be phased out in most countries).

The term "lead poisoning" is sometimes used as a dysphemism for gunshot wounds, as almost all bullets are mainly composed of lead. Despite this, bullets lodged in the body rarely cause significant levels of lead poisoning^[8]. Bullets lodged in the joints are the exception, as they deteriorate and release lead into the body over time^[9]

Symptoms and effects

The symptoms of chronic lead poisoning include neurological problems, such as reduced IQ, or nausea, abdominal pain, irritability, insomnia, metal taste in oral cavity, excess lethargy or hyperactivity, headache and, in extreme cases, seizure and coma. There are also associated gastrointestinal problems, such as constipation, diarrhea, vomiting, poor appetite, weight loss, which are common in acute poisoning. Other associated effects are anemia, kidney problems, and reproductive problems.

In humans, lead toxicity sometimes causes the formation of a bluish line along the gums, which is known as the "Burton's line", although this is very uncommon in young children. Blood film examination may reveal "basophilic stippling" of red blood cells, as well as the changes normally associated with iron deficiency anemia (microcytosis and hypochromia).

A direct link between early lead exposure and extreme learning disability has been confirmed by multiple researchers and child advocacy groups.

Biological role

Lead has no known biological role in the body. The toxicity comes from its ability to mimic other biologically important metals, the most notable of which are calcium, iron and zinc. Lead is able to bind to and interact with the same proteins and molecules as these metals, but after displacement, those molecules function differently and fail to carry out the same reactions, such as in producing enzymes necessary for certain biological processes.

Most lead poisoning symptoms are thought to occur by interfering with an essential enzyme Delta-aminolevulinic acid dehydratase, or ALAD. ALAD is a zinc-binding protein which is important in the biosynthesis of heme, the cofactor found in hemoglobin. Lead poisoning also inhibits the enzyme ferrochelatase which catalyzes the joining of protoporphyrin IX and Fe^{2+} to form a Heme. Genetic mutations of ALAD cause the disease porphyria, a disease which was highlighted in the movie *The Madness of King George*. Lead poisoning is sometimes mistaken for porphyria but the distinction is that lead poisoning usually causes anemia while true porphyria does not.

An article on Lead Encephalopathy on Emedicine states:

Lead also interferes with excitatory neurotransmission by glutamate, which is the transmitter at more than half the synapses in the brain and is critical for learning. The glutamate receptor thought to be associated with neuronal development and plasticity is the N-methyl-D-aspartate (NMDA) receptor, which is blocked selectively by lead. This disrupts long-term potentiation, which compromises the permanent retention of newly learned information.^[10]

The January 2004 edition of Scientific American magazine contained an article on Schizophrenia that said the latest research:

... implies that their brain circuits reliant on NMDA receptors are out of kilter. If reduced NMDA receptor activity prompts schizophrenia's symptoms, what then causes this reduction? The answer still remains unclear.

However, a Johns Hopkins report by Tomas Guilarte stated:

It has been known for some time that lead is a potent inhibitor of the NMDA receptor, a protein known to play an important role in brain development and cognition. In this study we demonstrate that lead exposure decreased the amount of NMDA receptor gene and protein in a part of the brain called the hippocampus.^[11]

Ezra Susser and his colleagues at Columbia University in New York followed 12,000 children born in Oakland, California, between 1959 and 1966, whose mothers had given samples of blood serum while they were pregnant, which were frozen and stored for later analysis. They found that children who had been exposed to high levels of lead in the womb were more than twice as likely to go on to develop schizophrenia. Their research was presented at the 2004 annual meeting of the American Association for the Advancement of Science in Seattle, Washington.

Occurrence

Outside of occupational hazards, the majority of lead poisoning occurs in children under age twelve. The main sources of poisoning are from ingestion of lead contaminated soil (this is less of a problem in countries that no longer have leaded gasoline) and from ingestion of lead dust or chips from deteriorating lead-based paints. This is particularly a problem in older houses where the sweet-tasting lead paint is likely to chip, but deteriorating lead-based paint can also powder and be inhaled. Small children also tend to teeth and suck on painted windowsills as they look outside. In most American states, landlords and those selling such houses are required to inform the potential residents of the danger.

Lead has also been found in drinking water. It can come from plumbing and fixtures that are either made of lead or have trace amounts of lead in them.^[12] Exposure to metallic lead such as small lead objects, can rarely lead to an increase in blood lead levels if the lead is retained in the gastrointestinal tract or appendix.

Lead can also be found in some imported cosmetics such as Kohl, from the Middle East, India, Pakistan, and some parts of Africa, and Surma from India. There are also risks of elevated blood lead levels caused by folk remedies like Azarcon which contains 95 percent lead and is used to "cure" empacho. For more information about less common causes of elevated blood lead levels, see footnote.^[13]

Lead may be contracted through the mucase membranes through direct contact to mouth, nose, eyes, and breaks in skin.

Measurement

One measure of lead in the body is the blood lead level (BLL), measured in micrograms of lead per deciliter of blood ($\mu\text{g}/\text{dL}$). Nearly everyone has a measurable BLL. The Centers for Disease Control and Prevention (CDC) states that a BLL of $10 \mu\text{g}/\text{dL}$ or above is a cause for concern. However, lead can impair development even at BLLs below $10 \mu\text{g}/\text{dL}$.^[14] However, BLL measures current exposure to lead, but lead may also be incorporated into bone from prior exposures that will not show in BLLs until this bone-lead becomes "mobilized" through pregnancy or fracture healing. A fetus can be poisoned in utero if its mother had high bone-lead from either childhood exposure or a later occupational or other exposure that is subsequently mobilized by the fetal need for calcium. K-fluorescent X-ray metering can measure bone-lead.

The average person has less than $10 \text{ micrograms per deciliter}$, or $100 \text{ parts per billion}$, ppb, of lead in their blood. People who have been exposed to an unusual amount of lead will have blood lead levels higher than 200 ppb —most clinical symptoms of lead poisoning begin at around 100 ppb . The effect on children's IQ has been noted at very low levels.^[15]

Treatment

Although the most important part of treating lead poisoning is decreasing exposure to lead, there are some forms of chelation therapy that can be used to reduce existing BLL levels:

- DMSA
- EDTA
- British anti-Lewisite

Additionally, vitamin C (ascorbic acid), is also thought to act as a *weak* (according to some sources) chelating agent,^[16] though high serum levels of vitamin C have been associated with a decreased prevalence of elevated blood lead levels.^[17]

Famous cases of lead poisoning

- Much of Rome's affluent class suffered from lead-induced gout.^[citation needed]
- The Devon colic was caused by the presence of lead in cider in 18th century Devon.

- Many historians have believed that Ludwig van Beethoven suffered from lead poisoning. This belief has been confirmed in 2005 by tests done at Argonne National Laboratory in the US on skull bone fragments, confirming earlier tests on hair samples.
- Francisco Goya was considered skilled but unremarkable until he contracted lead poisoning in his late forties and painted a series of disturbing paintings called "the Caprices."^[18]
- George Frideric Handel is believed to have acquired saturnine gout through port wine.^[19]
- Lead shot for hunting ducks and other waterfowl in wetland areas is often restricted because waterfowl can ingest spent shot while feeding from the bottom of lakes and ponds. Non-toxic alternatives such as bismuth or powdered metal/polymer shot is manufactured specifically for use in restricted habitat areas.^[citation needed]
- Operation of a smelter in Trail, British Columbia contributed to higher than average blood lead levels in children living in Trail compared to nearby communities.^[citation needed]
- In 1845, a crew of 128 gathering magnetic data in the Canadian Arctic, under the leadership of John Franklin, are thought to have died from lead poisoning among other things. The canned food on board was sealed in tin cans with lead solder. The lead is thought to have leaked into the food and driven the men mad.^[20]

Footnotes

1. ^ Couper RTL. (2006). "The Severe Gout of Emperor Charles V". *N Engl J Med* 355 (18): 1935-36.
2. ^ Book V. p 126, de Medicina, Aulus Cornelius Celsus [1]
3. ^ Ali, Esmat A. (1993). "Damage to plants due to industrial pollution and their use as bioindicators in Egypt". *Environmental Pollution* 81 (3): 251. DOI:10.1016/0269-7491(93)90207-5. PMID 15091810.
4. ^ Marmioli, Marta; *et al.* (March 2005). "Evidence of the involvement of plant ligno-cellulosic structure in the sequestration of Pb: an X-ray spectroscopy-based analysis". *Environmental Pollution* 134 (2): 217. DOI:10.1016/j.envpol.2004.08.004. PMID 15589649.
5. ^ Book V., de Medicina, Aulus Cornelius Celsus [2]
6. ^ Chapter 6, paragraphs 10 and 11, of Book VIII by Vitruvius [3]
7. ^ Josef Eisinger, "Lead and Wine - Eberhard Gockel and the Colica Pictonum" [4]
8. ^ A fatal case of lead poisoning due to a retained bullet
9. ^ Increased lead absorption and lead poisoning from a retained bullet
10. ^ <http://www.emedicine.com/neuro/topic185.htm>

11. [^]
http://www.jhsph.edu/publichealthnews/press_releases/PR_2000/lead_change.html
12. [^] <http://www.waterwebster.com/WashingtonD.C.lead.htm>
13. [^]
http://www.cdc.gov/nceh/lead/CaseManagement/caseManage_main.htm
14. [^] <http://www.toxicologysource.com/tox-med/lead/braininjury.html>
15. [^] [5]
16. [^] Llobet JM, Domingo JL, Paternain JL, Corbella J (1990). "Treatment of acute lead intoxication. A quantitative comparison of a number of chelating agents". *Arch Environ Contam Toxicol* 19 (2): 185-9. PMID 2322019.
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18. [^] <http://goya.unizar.es/InfoGoya/Life/Character.html>
19. [^] <http://gfhandel.org/frosch.htm>
20. [^] Franklin Saga Deaths: A Mystery Solved? National Geographic Magazine, Vol 178, No 3, Sep 1990